Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Policies and Rules Governing Interstate Pay-Per-Call and Other Information Services Pursuant to the Telecommunications Act of 1996	)	CC Docket No. 96-146
	)	
Policies and Rules Governing Interstate Pay-Per Call and Other Information Services, and Toll-free Number Usage	)	CG Docket No. 04-244
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170
	)	
Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act, Florida Public Service Commission Petition to Initiate Rulemaking to Adopt Additional Safeguards	)	RM-8783
	)	
Application for Review of Advisory Ruling Regarding Directly Dialed Calls to International Information Services	)	ENF-95-20
	)	

COMMENTS OF PAYMENTONE CORPORATION

PaymentOne Corporation ("PaymentOne"), by counsel and pursuant to Section 1.415 of the Commission's Rules,[1] respectfully submits its comments in response to the Commission's July 16, 2004 Notice of Proposed Rulemaking and Memorandum Opinion and Order ("NPRM")[2]

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[1] 47 C.F.R. §1.415.

[2] Policies and Rules Governing Interstate Pay-Per-Call and other Information Services Pursuant to the Telecommunications Act of 1996, CC Docket No. 96-146, Policy and Rules Governing Interstate Pay-Per-Call and Other Information Services, and Toll Free Number Usage, CG Docket No. 04-244, Truth-in-Billing Format, CC Docket No. 98-170, Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act, Florida Public Service Commission Petition to Initiate Rulemaking to Adopt Additional Safeguards, RM-8783, Continued . . .

in the above-referenced proceeding. PaymentOne offers a full range of billing solutions to companies selling products or services to the public. PaymentOne billing platforms include credit card, direct billing, account debit and billing through local telephone companies.

PaymentOne supports the adoption of reasonable and flexible guidelines that require presubscription agreements for all non-900 based audiotext information services. At the same time, PaymentOne believes that it is strongly in the public interest to provide for means of presubscription that will allow consumers and businesses the option to pay for such services through LEC-based phone bills. Without a reasonable, cost-viable option for telephone billing that is not based on credit card verification or usage, a substantial portion of our population that cannot use – or chooses not to use – credit cards, will be denied access to important telecommunication services, such as Internet access.

The phone bill payment option is now used for a variety of telecommunication services beyond the traditional pay-per-call model. This option enables consumers to bill their Internet access and other online charges to their local phone bill. By utilizing this payment method in this novel manner, consumers are able to charge to their local phone bill certain approved purchase transactions (typically online or telephone-related service subscriptions) that are not necessarily tied to the placement of individual telephone calls. (Though many of these charges may be initiated or confirmed by the placement of a telephone call, the charges – particularly subscriptions - do not generally require any subsequent calls for billing or usage of the service.) Millions of consumers have opted for the phone-bill payment method over the past 24 months.

Application for Review of Advisory Ruling Regarding Directly Dialed Calls to International Information Services, ENF-95-20, Notice of Proposed Rulemaking and Memorandum Opinion Continued . . .

The reasons for this popularity are twofold: security and lack of alternative online payment methods. First, the increase in online identity theft and consumer fraud over the last few years has left many consumers with legitimate concerns about the use of credit or debit cards over the Internet.[3] The phone bill payment method alleviates those concerns and represents a secure alternative. With deployment of a reasonable verification process, a consumer's phone number cannot be used, even if stolen, for face-to-face or online purchases. Further, PaymentOne has developed rigorous authentication procedures to validate consumer transactions, and PaymentOne and the local phone company both retain the right with the service provider to credit any consumer at any time. As a result, this payment method has become extremely attractive to those consumers who are legitimately concerned about online identity theft.

Second, the phone-bill payment method appeals to those consumers who do not have a credit card. While over 95% of U.S. consumers have a phone line, only approximately 75% have credit or debit cards.[4] Since credit and debit cards are the only payment method accepted by most online merchants, this disparity effectively means that a large percentage of U.S. consumers would be left out of the Internet revolution without a phone-bill payment alternative – at least for certain types of purchases.

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and Order, FCC 04-162 (released July 16, 2004).

[3] 92.4% of consumers are somewhat or extremely concerned about using credit card online *(see UCLA Internet Report 2003.pdf, page 50)*

[4] According to a PELORUS Group Report "Stored Value: 21st Century Currency", approximately 50 million adults in the U.S. do not possess credit cards. Almost 10 million households do not boast bank accounts *(Pelorus Group, see Note 3).* Further, the Hispanic segment, which constitutes approximately 13.3% of the U.S. population, has less than 40% credit card penetration.

For consumers who either have no credit card or prefer not to use it over the Internet, billing solutions that alleviate such concerns, such as billing through local telephone companies, constitute one of the few viable means for purchasing telecommunications-related goods and services. Indeed, in the last 24 months, the phone-bill payment option has enabled over 1 million consumers to access the Internet, most of whom would not have been able to do so without this payment option.

Exclusive of 900 services, which by statute are not subject to presubscription requirements, PaymentOne supports the Commission's proposal to subject all dialed information services to a presubscription requirement. This will prevent parties from using dialing patterns, such as 1010, to evade the regulatory intent that consumers evidence their consent before being charged for audiotext services that are provided via a telecommunications means of delivery.

However, the FCC's proposal to broaden and expand the presubscription provisions by requiring presubscription agreements to be executed in writing for all services would unnecessarily limit the availability and use of presubscription agreements by foreclosing other methods of validating subscription arrangements that are efficient, reasonable and trustworthy. Such an arbitrary limitation would be contrary to the public interest, especially considering that there are far less intrusive and more consumer-friendly forms of authorization and verification, including online methods, currently in widespread use, that provide the public with all of the protections and disclosures required by Congress. Not only is a written-agreement limitation not mandated by statute, its concept is contrary to the Commission's recognition in its own choice-of-carrier rules that there are many valid procedures to ensure consumer approval of telecommunication-related purchases.

There are several reasons why requiring presubscription agreements to be in writing should not be adopted. First, such a measure would conflict with Congressional intent. The Telecommunications Act of 1996 ("1996 Act") explicitly set forth those presubscription agreements which Congress wanted to be in writing - only for information services available through toll-free numbers. Second, the proposed written presubscription requirement would stymie Internet access and E-commerce for a significant portion of U.S. consumers. Merchants would not make the phone bill payment method available to consumers if they were required to obtain a written authorization before billing.[5] The consequence of this would effectively disenfranchise not only those consumers who currently use the phone-bill payment method, but it would also discourage those consumers who are not fully participating in the Internet revolution. Third, the FCC itself has recognized that there are a variety of procedures and practices that can be used to protect consumers. For example, FCC rules governing changes in telecommunications carriers allow for verification to be achieved by such measures as written authorization, electronic confirmation, and independent third-party verification. There is no reason why these and other methods could not be adopted in the context of information services.

Indeed, PaymentOne's current validation procedures meet the FCC's goals of consumer protection without imposing undue restraints on commerce and consumer access to the Internet. PaymentOne is committed to protecting consumers from unauthorized charges and providing assistance for billing dispute resolution. Toward that goal, PaymentOne has instituted rigorous procedures for the prescreening of providers, assessment of all products and services and price

[5] The efficiency of the Internet leverages automation and eliminates unnecessary and prohibitive costs. If online merchants were required to have the capability of screening and accepting paper authorizations for using a payment method, while another paperless, automated alternative exists (namely credit cards), merchants would choose not accept the method.

points offered (all approved and reviewed individually), analysis and tracking of chargeback and inquiry rates, as well as overall compliance monitoring of all procedures and related marketing/sales and service practices. PaymentOne also has adopted mandatory pre-authorization and verification procedures that equal if not exceed applicable federal and state requirements. Through the use of electronic letters of authorization and third-party verification, PaymentOne has established a presubscription procedure that provides a robust set of disclosures and protections and at the same time is more rigorous than other traditional payment methods and more efficient and practical for merchants and consumers to implement and manage. Mandating the use of executed written presubscription agreements in all instances would do little if anything to further protect consumers, but would unnecessarily burden the development of E-commerce and effectively deny a portion of the population with access to an important range of goods and services. Moreover, the requirement of written authorization would advantage credit card companies while providing in many respects less protection to the consumer than is now provided through the alternative verification methods that PaymentOne requires of its provider customers.

Rather than impose antiquated restrictions on payment companies and service providers, the Commission should use this proceeding to consider how it can provide such entities with maximum flexibility to make the best use of good business practices and current and future technologies in satisfying the existing presubscription, authorization and verification requirements. In this regard, the Commission should specifically allow for the use of a wide variety of authorization and verification measures, including recording of telephone sales authorization, independent third party verification, and a full range of electronic commerce practices consistent with the E-Sign Act.[6]

Respectfully submitted,

PAYMENTONE CORPORATION

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[6] Electronic Signatures in Global and National Commerce Act, S. 761, 106th Cong., 2d Sess. (signed into law June 30, 2000).